

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2896 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE D.G.KARIA sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? yes
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
2 to 5 No.

SHANTINIKETAN CO OP HOUSING SOCIETY LIMITED

Versus

GUJARAT STATE CO OPERATIVE TRIBUNAL

Appearance:

MR.S.N.SHELAT,for
MR MIHIR H JOSHI for Petitioner
MR RAVINDRA R. SHAH for Respondents No.2,3,4.
RESPONDENT NO.1 DELETED.

CORAM : MR.JUSTICE D.G.KARIA

Date of decision: 15/04/97

ORAL JUDGEMENT

Rule. Mr.Ravindra R.Shah, learned Advocate,
waives service of rule for the respondents No.2,3 and 4.
Mr.S.N.Shelat, learned Counsel appearing for the

petitioner, seeks leave to delete the respondent No.1 as party. Leave granted. Respondent No.1, Gujarat State Co-operative Tribunal,Ahmedabad, stands struck off as party-respondent No.1.

With the consent of the learned Counsels appearing for the parties and in facts of the case, the matter is finally heard today.

The matter arises out of the grant of ad interim injunction by the learned Member of the Board of Nominees Court at Ahmedabad in Lavad Cases No.2291/95,2295/95 and 2296/95. The grievance of the respondents Nos.2 to 4, who are the original defendants, is that the learned Presiding Officer of the Court at first instance is not disposing of the injunction applications by hearing and the matter is being delayed. The respondents Nos.2 to 4, therefore, filed Revision Applications No.20,21 and 22 of 1997 before the Gujarat State Co-operative Tribunal,Ahmedabad against the aforesaid ad interim injunction granted in favour of the petitioner-plaintiff in the aforesaid injunction applications. It appears that the respondents, who are the petitioners in those Revision Applications before the Tribunal, preferred stay applications wherein by order dated February 17,1997,the Tribunal directed the Court of Nominees to expedite the hearing of the pending injunction applications of the petitioners (respondents herein) and further directed that the matter be placed on board on 26.3.1997 and thereafter to dispose of the injunction applications within one month therefrom. The Tribunal, however, preponing the date of hearing of the aforesaid revision applications, disposed of the revision applications on March 31,1997 by quashing the ad interim injunction order passed by the learned Nominees' Court. It is against this order that the petitioner-plaintiff has approached this Court under Article 227 of the Constitution of India.

Mr.Ravindra R.Shah, learned Advocate appearing for the respondents, has agreed that if the impugned order is quashed on the matters being directed to the learned Nominee for expeditious hearing and disposal, he has no objection. It is an admitted fact that the respondents have filed written statements and objections to the injunction applications and the learned Presiding Officer of the Court of Board of Nominees is yet to hear the parties and record his final decision on the injunction applications. Before that stage could be

reached and the injunction applications could be disposed of finally by the Court at first instance, the Tribunal reversed that order and allowed the revision applications. In the facts and circumstances of the case, the Tribunal ought to have waited reasonably, particularly when the Tribunal had granted reasonable time to the court at first instance to dispose of the pending injunction applications and it would not be reasonable on the part of the court at first instance to dispose of the injunction applications in hot-haste without waiting reasonably, before disposing them of within the time-frame which was earlier granted by the Tribunal. In this view of the matter, the impugned order cannot be sustained. The parties have even agreed to go to the Court of the learned Presiding Officer of the Court of the Board of Nominees for hearing of the pending injunction applications.

In the above view of the matter, the petition is allowed. The impugned order passed by the Gujarat State Co-operative Tribunal in Revision Applications No.20,21 and 22 of 1997 dated 31.3.1997 is quashed. The learned Presiding Officer of the Board of Nominees Court, Ahmedabad, is directed to hear the parties on injunction application Exh.6 in Lavad Cases No.2291/95, 2295/95 and 2296/95 and dispose of the said applications as expeditiously as possible, preferably by June 30,1997.

Rule is accordingly made absolute with no order as to costs.
